

2009 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB107)

Received: **06/09/2009**

Received By: **btradewe**

Wanted: **Today**

Identical to LRB:

For: **Mark Miller (608) 266-9170**

By/Representing: **John Anderson**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Environment - recycling**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Miller@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Relief from shortfall fee

Instructions:

See attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|------------------------|--------------------|------------------------|----------------|-----------------------|-----------------------|-----------------|
| /? | btradewe 06/09/2009 | jdye 06/09/2009 | | _____ | | | |
| /P1 | | | phenry 06/09/2009 | _____ | mbarman 06/09/2009 | | |
| /1 | btradewe 06/09/2009 | jdye 06/09/2009 | jfrantze 06/09/2009 | _____ | mbarman 06/09/2009 | mbarman 06/09/2009 | |

FE Sent For:

<END>

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|--------------|------------------------|--------------------|----------------------|----------------|-----------------------|-----------------|-----------------|
| /? | btradewe 06/09/2009 | jdye 06/09/2009 | | _____ | | | |
| /P1 | | <i>16/9 jld</i> | phenry 06/09/2009 | _____ | mbarman 06/09/2009 | | |
| | | | <i>[Signature]</i> | <i>6/9</i> | | | |

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| /? | btradewe | PI 6/9 jld | 6/9 ph | 6/9 ph/gk | | | |

FE Sent For:

<END>

Tradewell, Becky

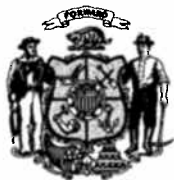
From: Anderson, John
Sent: Tuesday, June 09, 2009 8:36 AM
To: Tradewell, Becky
Subject: draft request for amendment to SB 107 up this morning.

Good morning Becky. Sen. Miller wishes to draft an amendment to provide manufacturers with an appeals process on their assessed shortfall fees. Below is the idea, but of course, we defer to your expertise. Thank you, Becky.

Appeal process:

Not later than sixty (60) days after the date a manufacturer receives notice that a shortfall fee will be imposed, the manufacturer may petition the Wisconsin Department of Natural Resources for relief from the annual shortfall fee imposed under section 6(4) upon showing of good cause. In determining whether to grant a petition for relief under this section, the Wisconsin Department of Natural Resources shall determine whether the manufacturer has made good faith progress to achieve substantial compliance within this article. A determination by the Wisconsin Department of Natural Resources is not subject to appeal by the manufacturer.

John G. Anderson
Office of Senator Mark Miller
State Capitol Room 317 East
P O Box 7882
Madison, WI 53707
Phone: (608) 266-9170
Fax: (608) 266-5087



State of Wisconsin
2009 - 2010 LEGISLATURE

Now

LRB 0512/P1

RCT:bjk:rs

0514/01
jkd
stays
YMAR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT,
TO SSA 2
TO 2009 ASSEMBLY BILL 278 107

d-note

At the locations indicated, amend the bill as follows:

1. Page 13, line 4: substitute "2011" for "2010".

2. Page 13, line 5: delete lines 5 and 6 and substitute "manufacturer shall pay a shortfall fee under par. (d) if the amount calculated under that provision is a positive number, except that a manufacturer is not".

3. Page 13, line 8 after "years" insert "and except as provided under par. (g)".

4. Page 13, line 9: delete the material beginning with that line and ending with page 14, line 7.

5. Page 14, line 17: delete "1".

6. Page 15, line 12: delete "1. or".

7. Page 15, line 13: delete "2".

Relief From shortfall fee.

8. Page 15, line 13: delete "(c) 1. or".

9. Page 15, line 19: delete "1."

10. Page 16, line 1: delete lines 1 to 7.

11. Page 16, line 8: before that line insert.

Page 16, line 14: after that line insert:

(g) 1. Instead of paying a shortfall fee under this subsection in a year, a

manufacturer may submit, with its registration, a request for relief from the

shortfall fee in that year along with information showing that the manufacturer has

made good faith progress toward meeting its target recycling weight under par. (d)

1.

2. If the department determines that a manufacturer that makes a request under subd. 1. in a year has made good faith progress toward meeting its target recycling weight, the department shall waive requirement that the manufacturer pay the shortfall fee in the year. If the department determines that the manufacturer has not made good faith progress toward meeting its target recycling weight, it shall notify the manufacturer and the manufacturer shall pay the shortfall fee within 60 days after receiving the notification. A determination by the department under this subdivision is not subject to appeal by the manufacturer."

12. Page 17, line 20: substitute "2012" for "2011".

13. Page 25, line 24: after "changed" insert "because a substantial number of manufacturers cannot meet their target recycling weights under sub. (4) (d) 1. or".

(END)

d-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0514/P1dn

RCT:.....

date

JLd

John Anderson

The language in the request proposing an appeal process referred to appealing within 60[✓] days after notice that a shortfall fee[✓] would be imposed. I do not think the bill provides for such a notice to be provided. Any shortfall fees are to be paid with the annual registration. I do not think that DNR[✓] would have all of the information needed to calculate the fees before the registration is submitted. For example, if a manufacturer elects to use recycling credits, it informs DNR of that when it submits its registration. I think that the bill contemplates that manufacturers will calculate their own shortfall fees. (I imagine that DNR would provide any help requested and would review calculations made by manufacturers.) Therefore, the draft requires the manufacturer to request relief from the shortfall fee when it files its annual registration. bill

Please let me know if you have any questions about this draft or if you want any changes. If no changes are wanted, please let me know that and I will redraft it as a /1.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0514/P1dn
RCTjld:ph

June 9, 2009

John Anderson

The language in the request proposing an appeal process referred to appealing within 60 days after notice that a shortfall fee would be imposed. I do not think the bill provides for such a notice to be provided. Any shortfall fees are to be paid with the annual registration. I do not think that DNR would have all of the information needed to calculate the fees before the registration is submitted. For example, if a manufacturer elects to use recycling credits, it informs DNR of that when it submits its registration. I think that the bill contemplates that manufacturers will calculate their own shortfall fees. (I imagine that DNR would provide any help requested and would review calculations made by manufacturers.) Therefore, the bill requires the manufacturer to request relief from the shortfall fee when it files its annual registration.

Please let me know if you have any questions about this bill or if you want any changes. If no changes are wanted, please let me know that and I will redraft it as a /1.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Barman, Mike

From: Anderson, John
Sent: Tuesday, June 09, 2009 10:20 AM
To: Barman, Mike
Subject: RE: Draft review: LRB 09a0514/P1 Topic: Relief from shortfall fee

Mike, please have this jacketed for introduction. Thank you. jga

From: Barman, Mike
Sent: Tuesday, June 09, 2009 9:18 AM
To: Sen. Miller
Subject: Draft review: LRB 09a0514/P1 Topic: Relief from shortfall fee

Following is the PDF version of draft LRB 09a0514/P1 and drafter's note.

Except delete last line.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa0514/P1
RCT:jld&bjk:ph

Now

/m

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

**SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2009 SENATE BILL 107**

✓
At the locations indicated, amend the substitute amendment as follows:

1. Page 13, line 14: after "years" insert "and except as provided under par. (g)".

2. Page 16, line 14: after that line insert:

✓
“(g) *Relief from shortfall fee.* 1. Instead of paying a shortfall fee under this subsection in a year, a manufacturer may submit, with its registration, a request for relief from the shortfall fee in that year along with information showing that the manufacturer has made good faith progress toward meeting its target recycling weight under par. (c) 1. or (d) 1.

2. If the department determines that a manufacturer that makes a request under subd. 1. in a year has made good faith progress toward meeting its target recycling weight, the department shall waive requirement that the manufacturer

1 pay the shortfall fee in the year. If the department determines that the manufacturer
2 has not made good faith progress toward meeting its target recycling weight, it shall
3 notify the manufacturer and the manufacturer shall pay the shortfall fee within 60
4 days after receiving the notification. A determination by the department under this
5 subdivision is not subject to appeal by the manufacturer. ✓
6

(END)

↑↑
keep

TODAY please

LRBa0514/1
RCT

CCC to
SAI,
to SSA I,
to 2009 SB-107

#. Page 1, line 11: before "requirement" insert
"the".

(end)

JLD



State of Wisconsin
2009 – 2010 LEGISLATURE

LRBa0514/1
RCT:jld&bjk:jf

SENATE AMENDMENT 1,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2009 SENATE BILL 107

June 9, 2009 – Offered by Senator Miller.

*** AUTHORS SUBJECT TO CHANGE ***

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 13, line 14: after "years" insert "and except as provided under par. (g)".

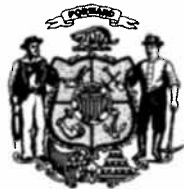
3 2. Page 16, line 14: after that line insert:

4 "(g) *Relief from shortfall fee.* 1. Instead of paying a shortfall fee under this
5 subsection in a year, a manufacturer may submit, with its registration, a request for
6 relief from the shortfall fee in that year along with information showing that the
7 manufacturer has made good faith progress toward meeting its target recycling
8 weight under par. (c) 1. or (d) 1.

9 2. If the department determines that a manufacturer that makes a request
10 under subd. 1. in a year has made good faith progress toward meeting its target
11 recycling weight, the department shall waive ^{the} requirement that the manufacturer
12 pay the shortfall fee in the year. If the department determines that the manufacturer

1 has not made good faith progress toward meeting its target recycling weight, it shall
2 notify the manufacturer and the manufacturer shall pay the shortfall fee within 60
3 days after receiving the notification.”.

4 (END)



State of Wisconsin
2009-2010 LEGISLATURE

CORRECTIONS IN:

**SENATE AMENDMENT 1,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2009 SENATE BILL 107**

Prepared by the Legislative Reference Bureau
(June 9, 2009)

1. Page 1, line 11: before "requirement" insert "the".

(END)